

REMARKS

Applicant submits this Request for Reconsideration After Final in response to the Office Action mailed on November 17, 2010. In the Action, the Examiner rejected claims 39-45, 47-51, and 53-59 under 35 U.S.C. § 103(a) as allegedly unpatentable over Mahadevan-Jansen et al. (U.S. Patent No. 5,842,995) in view of "Ultraviolet laser-Induced Autofluorescence Distinction Between Malignant and Normal Urothelial Cells and Tissue" to Anidjar et al.; and rejected claim 52 under 35 U.S.C. § 103(a) as allegedly unpatentable over Mahadevan-Jansen et al. and Anidjar et al., and further in view of Vari (U.S. Patent No. 5,503,559). The Examiner made the rejections final. Applicant respectfully traverses the claim rejections set forth in the Action.

Claims 39-45 and 47-59 are currently pending in this case. Of these claims, claims 39 and 55 are independent.

As an initial matter, Applicant would like to thank Examiner Lamprecht for the courtesies extended to Applicant's representative during the telephonic interview on January 11, 2011. The following remarks reflect the substantive issues discussed during the interview. Should the Examiner disagree with the Applicant's comments on the substance of the interview, he is invited to contact the undersigned at (202) 408-4167 in order to resolve such disagreement.

Independent claim 39 recites, among other things, "a substrate having a light emitting portion at a distal end of a first surface thereof . . . and a light detector disposed at a proximal end of the first surface." Similarly, although of different scope, independent claim 55 recites, among other things, "a substrate comprising a light

emitting portion at a distal end of a first surface thereof and a light detector disposed on a proximal end of the first surface.”

During the interview, Applicant’s representative explained that Mahadevan-Jansen et al. fails to disclose or reasonably suggest the claimed substrate having “a light emitting portion at a distal end of a first surface thereof . . . and a light detector disposed at a proximal end of the first surface,” as required by independent claims 39 and 55. Rather, as recognized by the Examiner during the aforementioned interview, Mahadevan-Jansen et al. discloses *two separate* and distinct “substrates,” characterized as the dielectric coatings of each of the excitation and collection fibers. Indeed, in discussing these differences, the Examiner noted in the Interview Summary mailed on January 27, 2011, that the “Examiner and Applicant agreed that this aspect of the application differs from the art to Mahadevan-Jansen in at least this aspect.” Interview Summary, p. 2. Accordingly, as acknowledged by the Examiner, Mahadevan-Jansen et al. fails to disclose a light emitting portion and a light detector on the *same* surface of a substrate. In addition, the Examiner relies on Anidjar et al. solely for the alleged teaching of “the use of a UV-spectrum evaluation of spectroscopy using a multifiber catheter (Page 337, Column 1), filters around the UV range (Page 337, Column 1) and cellular tissues to perform an in vitro study of diagnostic capability of spectroscopy for urothelial tumor diagnosis (Page[s] 335-337).” See Office Action, p. 3. Even if Anidjar et al. teaches what the Office Action alleges, which Applicant does not concede, Anidjar et al. still fails to cure the deficiencies of Mahadevan-Jansen et al. with respect to independent claims 39 and 55.

For at least the foregoing reasons, Applicant respectfully requests reconsideration and withdrawal of the Section 103(a) rejection of independent claims 39 and 55 based on Mahadevan-Jansen et al. in view of Anidjar et al. Further, Applicant submits that claims 40-45, 47-51, 53, 54, and 56-59 depend from one of independent claims 39 and 55, and are therefore allowable for at least the same reasons as their respective independent claim, as well as for their additionally recited features.

In regards to dependent claim 52, the Office Action relies on Vari solely for the alleged teaching of “the use of PMMA, polystyrene and other silica-core fibers to allow for the transmission of UV light.” See Office Action, p. 4. Even if Vari teaches what the Office Action alleges, which Applicant does not concede, Vari still fails to cure the deficiencies of Mahadevan-Jansen et al. and Anidjar et al. with respect to independent claim 39, from which claim 52 depends. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the Section 103(a) rejection of dependent claim 52 based on Mahadevan-Jansen et al. in view of Anidjar et al. and further in view of Vari.

The Office Action may contain characterizations of the claims and the related art with which Applicant does not necessarily agree. Unless expressly noted otherwise, Applicant declines to subscribe to any statement or characterization in the Office Action.

In discussing the specification, claims, and/or drawings in this Request, it is to be understood that Applicant is in no way intending to limit the scope of the claims to an exemplary embodiment described in the specification, abstract, and/or shown in the drawings. Rather, Applicant is entitled to have the claims interpreted broadly, to the maximum extent permitted by statute, regulation, and applicable case law.

In view of the foregoing remarks, Applicant respectfully requests reconsideration and reexamination of the application, and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this Request and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: February 16, 2011

By: Jessica F. Winchester
Jessica F. Winchester
Reg. No. 65,285
(202) 408-4000